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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,925	01/02/2001	Dauna R. Williams	1906-001A	1241

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EXAMINER	
ALVAREZ, RAQUEL	
ART UNIT	**PAPER NUMBER**
3622	

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/752,925	WILLIAMS, DAUNA R.	
	Examiner	Art Unit	
	Raquel Alvarez	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *18-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *18-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to communication filed on 8/9/2005.

2. Claims 18-34 are presented for examination. Claim 26 has been amended.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 18-20, 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Stettner US Patent Application Publication US 2002/0023130).

With respect to claims 18 and 27, Stettner teaches means for sending an electronic query to a member of a test audience, wherein said query elicits an electronic feedback message [0017, 0032]; means for receiving said message [0018, 0019, 0034, 0035]; and means for electronically transmitting data comprising said feedback message, wherein said data is electronically analyzed and utilized in development of said show [0028].

With respect to claims 19, 20, Stettner further teaches that the show comprises a television, or online series [0020] .

With respect to claims 23-24, Stettner further teaches that said transmitting and receiving are performed via the Internet or via one or more viewer portals [0020].

With respect to claim 25, Stettner further teaches that the data is transmitted to a broadcaster [0028].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 21-22, 26, 28-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stettner.

Claim 26 further recite that the feedback message is to be incorporated into the script of a show scheduled for broadcast within seven days. Stettner teaches that the feedback messages are incorporated into the broadcast show [0027]. Stettner is silent as to how long it takes for the user's feedback to be incorporated into the show. Incorporated the user's input within seven days will allow proper and ample of time for the show to be edit with the new content. It would have been obvious to a person of

ordinary skill in the art at the time of Applicant's invention to have included incorporating the user's input within 7 days in order to obtain the above mentioned advantage.

Claims 21-22 further recite structuring the queries into multi-tiered manner based on when a tier of questions can be incorporated into said story. Stettner teaches structuring the responses to the user's input into said story [0017, 0032]. Stettner doesn't specifically teach structuring the queries into a multi-tiered manner based on when a tier question can be incorporated into the story. Official notice is taken that it is old and well known to structure queries/questions in a multi-tiered manner based on when a tier questions is to incorporated. For example, based on the stage of when a new product or service, will be marketed different level of information is needed for the customers in order to fully develop the product/services. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included structuring the queries into multi-tiered manner based on when a tier of questions can be incorporated into said story in order to achieve the above mentioned advantage.

Claims 28-33 further recite that the query further comprises a prequel-mercial to garner feedback for initial episodes, to educate the audience about the show, promote the show, to provide portions of the storyline that are supportive of the show. Stettner doesn't specifically teach that the questions/query comprises a prequel-mercial to garner feedback for initial episodes, to educate the audience about the show, promote the show, to provide portions of the storyline that are supportive of the show. Official

notice is taken that it is old and well known in TV shows to place commercials promoting responses to shows, educating the audience of the upcoming shows in order to promote the upcoming events. For example, previews of upcoming shows promote audience participation and viewership of the show, as well as educate and promote the show and shows the viewers mini-portions of the upcoming shows, the viewers feedback is measure by the viewership of the show. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included query of prequel-mercial to garner feedback for initial episodes, to educate the audience about the show, promote the show, to provide portions of the storyline that are supportive of the show in order to obtain the above mentioned advantage.

Claim 34 further recites that the prequel-mercial comprises product placement advertisement within said storyline. Official notice is taken that it is old and well known in marketing to provide advertisements/information/products related to the information that the user is viewing. For example, certain websites will provide advertisements or the like based on the content of the web page that the user is viewing. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included prequel-mercial comprises product placement advertisement within said storyline in order to better target the product placements.

Response to Arguments

5. Applicant argues that Stettner doesn't teach sending an electronic query. The Examiner respectfully disagrees with Applicant because in Stettner, the e-mail alert that

tells participants when input will be accepted is in essence a query to obtain information. As can be seen from [paragraph 0032 and 0037], the e-mail is a notification requesting the participants to participate in an interactive show.

6. Applicant argues that Stettner doesn't teach sending the query to a member of a test audience. The Examiner respectfully disagrees with Applicant because even though Strettner is asking the audience of an actual show being broadcast to participate by providing their input, the participants are members of an audience and are participating in a test or observation or examination of a show and therefore they will be considered "test audience".

7. Applicant argues that Strettner doesn't teach that the shows are episodic shows. The Examiner disagrees with Applicant because in Strettner, the shows are part of a show segments [last sentence of paragraph 0008].

8. With respect to claim 26, Applicant argues that Strettner doesn't teach incorporating into the script of a show scheduled within seven days. Applicant is reminded that the Examiner has taken official notice of this feature.

9. Applicant argues that in Strenner there is no story. The Examiner disagrees with Applicant because "a story" as defined by Webster's Dictionary, tenth edition is merely "an account of incidents or events"...."a news article or broadcast" and it is taught by Strettner [paragraph 0020].

With respect to the official notice taken, Applicant didn't command a response or request of such personal knowledge such as to provide a proper challenge that would at least cast reasonable doubt on the fact taken notice of, the Official notice is sustained.

See MPEP 2144.03 where In re Boon is mentioned.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Point of contact

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Raquel Alvarez/
Primary Examiner
Art Unit 3622

R.A.
3/9/2006